

Department of Planning and Budget

2018 Fiscal Impact Statement

1. **Bill Number:** HB107

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. **Patron:** Bell, John J.

3. **Committee:** Commerce and Labor

4. **Title:** Workers' compensation; disease presumptions, correctional officers

5. **Summary:** Adds correctional officers to the list of public safety employees who are entitled to a presumption that hypertension and heart disease and certain infectious diseases are occupational diseases compensable under the Virginia Workers' Compensation Act.

6. **Budget Amendment Necessary:** Indeterminate – see Item 8. Claim costs associated with claims under these presumptions would be ultimately be borne by the Department of Corrections. Costs associated with pre-employment and annual testing would be directly borne by the Department of Corrections and not paid by the State Employee Workers' Compensation Services program. Increased experience because of claims associated with the proposed legislation may result in increased workers' compensation premiums for the Department of Corrections.

7. **Fiscal Impact Estimates:** Preliminary – see Item 8.

8. **Fiscal Implications:** A review of all heart lung presumption claims filed with State Employee Workers' Compensation Services from 2000 to the present shows an average cost per claim of nearly \$103,005. Excluding those claims filed for record purposes only and those that were denied coverage, the average cost per claim rises to \$248,439 for those claims where benefits were paid. For the first time, the program covered a heart transplant in 2017. For that claim alone, \$1,795,033 has been paid to date with an estimated ultimate cost of the claim currently \$3,770,508.

A review of Department of Corrections claims for needlesticks and infectious disease exposure indicates the program received 344 claims for calendar years 2014 – 2017. The average cost for all claims was \$1,291. Excluding Record Only and denied claims, 255 claims were accepted and the average cost for claims where benefits were paid was \$1,687. Because the Commonwealth's Workers' Compensation Program premiums are experience-based, the Department of Corrections would bear any increased cost to the program for claims covered by the proposed legislation.

The Department of Corrections has updated its estimated costs as follows:

FY 2019 (Implementation Cost)

Total Current Authorized Positions in the Correctional Officer Series: 7,500
(Assumes all positions filled to establish baseline)
(As of December 31, 2017 the Department of Corrections has 7,135 filled positions)

Total new hires (correctional officers only) in calendar year 2017: 1,901
(Note: Security positions other than correctional officers filled through internal promotion)

Estimated cost of physical per person to establish baseline or as an applicant: \$340
Total: **\$3,196,340**

Ongoing Annual Cost

Average number of new hires (correctional officers only) for past five calendar years: 1,409
(Note: Security positions other than correctional officer filled through internal promotion)

Estimated cost of physical per person to establish baseline or as an applicant: \$340
Total estimated ongoing annual cost: **\$479,060**

According to the Virginia Retirement System (VRS), because the Virginia Line of Duty Act (LODA) uses certain workers' compensation presumptions to assist in determining whether a disability or death occurred in the line of duty for specific categories of employees covered by LODA, the addition of these presumptions for correctional officers, who are covered under LODA, would add to the costs for the Line of Duty Death and Health Benefits Fund (Fund) and includes local governments that participate in the Fund.

VRS has adjusted the LODA valuation model's current cost assumptions to reflect the estimated impact to cash flows:

- 14% increase to health care claims;
- 10% increase to death benefit claims; and
- 33% increase to Health Insurance Credit Program (HIC) receipts for those participating in the HIC plan for State Employees.

The table below shows the impact of applying the proposed legislation prospectively (deaths and disabilities occurring on or after July 1, 2018).

Cost Impact HB 107 on the LODA Fund

Item	Fiscal Year Ending June 30					
	2019	2020	2021	2022	2023	2024
Employer Contribution Rate (\$ Per FTE)						
Number of FTE Employees	18,733.80	18,733.80	18,733.80	18,733.80	18,733.80	18,733.80
HB 107 Basis - Prospective Only	\$710.73	\$714.59	\$846.07	\$919.07	\$987.07	\$1,063.86
June 30, 2017 Valuation	<u>\$705.77</u>	<u>\$705.77</u>	<u>\$832.90</u>	<u>\$901.14</u>	<u>\$963.97</u>	<u>\$1,035.21</u>
Additional Cost per FTE	\$4.96	\$8.82	\$13.17	\$17.93	\$23.10	\$28.65
Estimated Additional Contributions	\$92,900	\$165,200	\$246,700	\$335,900	\$432,800	\$536,700

It is unclear whether the provisions of the proposed legislation would apply to prior deaths and disabilities. Allowing retroactive application of this provision, for deaths and disabilities incurred prior to July 1, 2018, could cost significantly more with estimated additional annual contributions ranging from \$1.5 million – \$2.0 million over the next 6 years.

The results were developed using the LODA Fund’s claim incidence experience for the causes of “Hypertension or Heart Disease” and “Infectious Disease”, as provided by the Department of Accounts (DOA) for the June 30, 2017 valuation, coupled with the proportion of correctional officers full-time equivalents to the LODA Fund in total (6,494.00 and 18,773.80, respectively). All other valuation assumptions and methods are those used and disclosed in the “Report on the Actuarial Valuation of the Line of Duty Act Fund, Prepared as of June 30, 2017”.

These cost increase assumptions would apply pro rata to individual localities that are funding LODA costs independently from the Fund.

9. Specific Agency or Political Subdivisions Affected: Department of Human Resource Management, Department of Corrections, Virginia Retirement System, and Virginia Workers’ Compensation Commission

10. Technical Amendment Necessary: No.

11. Other Comments: According to VRS, the proposed legislation would add correctional officers, as defined in § 53.1-1, Code of Virginia, to the category of employees who are eligible for the presumption that a death or disability caused by hypertension, heart disease, or certain infectious diseases is work related, unless such presumption is overcome by a preponderance of competent evidence to the contrary. The addition of these employees to those eligible for this presumption would have an impact on LODA costs over time for employers who participate in the Fund. Correctional officers, as defined in § 53.1-1, Code of Virginia, are covered under LODA and the addition of this presumption will likely lead to an increase in the number of individuals who become eligible for LODA benefits.